

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2008-007792-001 DT

10/13/2009

JUDGE PRO TEM JAMES T. BLOMO

CLERK OF THE COURT  
L. Talbo  
Deputy

STATE OF ARIZONA

ANNIELAURIE VANWIE

v.

JEFFREY ALLEN HERALD (001)

D STEPHEN WALLIN

VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

The defendant, Jeffrey Herald, is charged with 78 separate counts. The defendant was originally charged in 2007-008408-001. That case was dismissed when the defendant was charged in 2008-007792-001. In 2008-007792-001 the state added additional counts that allege that the defendant committed additional acts while on release when the 2007-008408-001 cause was pending. The alleged counts are counts 57, 67 and 75 Fraudulent Schemes and Artifices Class 2 Felonies and Counts 58 and 68 Theft Class 3 Felonies and count 76 Theft a Class 2 felony.

The defendant was held non-bondable in 2008-007792-001 at his Initial Appearance (IA) after the Court found proof evident presumption great that the defendant committed a felony while on release for a felony offense pursuant to Article 2 Section 22 of the Arizona Constitution. Article 2 Section 22 (A)(2) of the Arizona Constitution states:

A. All persons charged with crime shall be bailable by sufficient sureties, except:

2. For felony offenses committed when the person charged is already admitted to bail on a separate felony charge and where the proof is evident or the presumption great as to the present charge.

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The defendant, through counsel, requested a hearing pursuant to *Simpson v. Owens*, 207 Ariz. 261, 85 P.3d 478 (App. 2004) ("*Simpson*"), regarding defendant's status as non-bondable. *Simpson* was based on the requirement that the proof is evident or presumption great that defendant committed one of the crimes enumerated in A.R.S. § 13-3961(A) while on release for a separate felony charge.

On August 10, 2009 a *Simpson* Hearing was held in CR2008-007792-001. The testimony lasted approximately 4 hours and included over 100 exhibits. Argument was held September 21, 2009 and lasted approximately 1 ½ hours. The State introduced evidence from MCAO Detective Tadlock who testified as to the investigation as it related to counts 57, 58, 67, 68, 75 and 76. Detective Tadlock testified that the defendant contacted the three victims and that the defendant offered to place loans for the various projects the victims were attempting to get funded. The exact same conduct that the defendant was facing charges for in 2007-008408-001. The defendant offered to try to place loans with various lenders. In exchange the defendant would charge a commitment fee that would be refundable at the end of the process. The commitment fee was to cover all expenses related to placing the loan, lenders fees, appraisals and other expenses. The defendant touted his company as different in that at the close of the process the commitment fee would be returned.

In these instances the victims told Detective Tadlock that they had no idea of the defendants pending criminal charges for identical conduct or the defendant's past criminal history for fraud. The victims indicated they relied on the defendant's assertions that he would refund their commitment money. The victims indicated to Detective Tadlock that had they known that the defendant owed in excess of \$250,000.00 to various victims for the exact same conduct that they would never have signed up with the defendant or provided a commitment fee. The defendant never returned the commitment fee to the victims as promised.

The defendant claimed that his actions were not fraud but rather the by-product of a bad business model. The defendant asserts that attempts were made to place the loans with various companies and that the victims just didn't like the terms he was able to get them for their projects. The defendant presented evidence from Investigator Vogel.

The court has had the opportunity to review the 100 plus documents admitted into evidence in context. The court has reviewed all the documents as they relate to the individual counts as well as the charges as a whole and the current case law.

The Court finds proof evident presumption great that the defendant committed counts 57, 67 and 75 Fraudulent Schemes and Artifices Class 2 Felonies and that he was on release for a felony offense out of Maricopa County 2007-008408-001 when he committed the offenses.

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IT IS ORDERED in that the defendant continues to be held non-bailable pursuant to Article 2 Section 22 (A)(2) of the Arizona Constitution.